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DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

10,103

FILE: B-191831

DATE: May 8, 1979

MATTER OF: Alan H. Barbaree - Temporary quarters allowance

DIGEST: Although an employee certified his trailer would be used as a residence in order to be entitled under Federal Travel Regulations (FTR) 2-7.1, et seq., to reimbursement for transporting his trailer to his new permanent duty station, he may under FTR 2-5.1, et seq., be reimbursed subsistence expenses while occupying temporary quarters. The trailer was intended to be a temporary residence at the new duty station until a permanent home could be located. A deduction should be made of the amount improperly paid under FTR 2-7.1, et seq., since payment for this purpose was unauthorized.

This action responds to a request for an advance decision from Mr. H. Larry Jordan, Authorized Certifying Officer, United States Department of Agriculture, concerning the claim of Alan H. Barbaree for reimbursement of subsistence expenses in the amount of \$522 incurred while occupying temporary quarters incident to relocation of permanent duty station.

The principal issue is whether the claimant's trailer was intended for, and could be used as, a permanent residence rather than being limited to a temporary residence preparatory to establishing a regular permanent home at the new duty station.

On July 12, 1977, Mr. Barbaree, incident to his transfer from the National Park Service in Denver, Colorado, to the Forest Service, in Salt Lake City, Utah, was authorized the transportation of his trailer in lieu of transportation and temporary storage of household goods. As required in para. 2-7.1a of the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973), Mr. Barbaree certified that his trailer would be used by him and his immediate family as a "residence" at his destination and new duty station at Salt Lake City. By so certifying the Forest Service evidently believed that Mr. Barbaree intended to use the trailer as a permanent residence, and he was paid \$55.44 for transporting his trailer by privately owned vehicle under FTR paras. 2-7.1, et seq.

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However, Mr. Barbaree states he intended to use his trailer for a temporary residence until he could locate a permanent residence in Salt Lake City. Consequently, he believes he is entitled to temporary quarters subsistence for 30 days while temporarily living in the trailer as authorized in FTR paras. 2-5.1, et seq. According to Mr. Barbaree his trailer was inadequate for a permanent residence in Salt Lake City, particularly with winter approaching, since it was difficult and expensive to heat and the plumbing was inadequate in freezing weather. Also, with interior dimensions of 7-1/2 by 27-1/2 feet there was insufficient space for both him and his wife, who was expecting a child requiring additional living space, and their pet dog. The trailer was suited only for temporary, recreational use and had been occupied by Mr. Barbaree while he was in permanent travel status when he was assigned at Denver and his wife resided in a home at Boulder, Colorado.

Mr. Barbaree and his wife lived in the trailer approximately 3-1/2 months near Salt Lake City until they moved into a home which they had purchased. They actively sought to locate a permanent home soon after they arrived at the new duty station and began their temporary stay in the trailer.

The Acting Regional Forester, Salt Lake City, states that temporary quarters subsistence would have been included in the travel authorization had it been requested. Mr. Barbaree states that he had not made the request because he was unfamiliar with the regulations for a permanent change of station. The Acting Regional Forester informs us that Mr. Barbaree was not given advice on the subject.

Paragraph 2-5.2c of the FTR defines "temporary quarters" as any lodging obtained from private or commercial sources to be occupied temporarily by the employee or members of his immediate family who have vacated the residence quarters in which they were residing at the time the transfer was authorized. The expense record for temporary quarters indicates that Mr. Barbaree parked his trailer at a commercial motel and trailer court for which he paid \$2.17 daily.

We have held that the term "temporary quarters" means principally transient type quarters occupied by employees and their families for less than 30 days unless there is some other factor

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justifying a longer stay. B-163043, June 18, 1968. We have also held that there is no comprehensive definition of the term and that each case must be treated on the basis of the particular facts showing the employee's intent to use the lodging temporarily. 47 Comp. Gen. 84 (1967); B-163711, May 14, 1969. See also B-178836, July 12, 1973.

On the other hand, reimbursement for transportation of a mobile home under FTR paras. 2-7.1, et seq., for use as a residence, is ordinarily a substitute for entitlement to relocation expenses of an ordinary permanent residence at the new duty station, as well as a substitute for transportation and storage of household goods. When the mobile home is intended for a permanent residence, the allowance under this provision prohibits reimbursement of these substituted expenses except in those infrequent cases when the mobile home cannot be used as a permanent residence. 55 Comp. Gen. 228 (1975); Karen P. Galloway, B-183195, June 1, 1976.

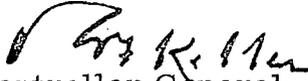
In the present case, the trailer was intended for temporary quarters until a permanent home could be obtained, and it was unsuitable for a permanent residence. Mr. Barbaree's active search for a permanent home while living in the trailer is an added factor showing that the trailer was intended for temporary quarters. 47 Comp. Gen. 84 (1967). Finally, temporary quarters subsistence would have been authorized in the first instance had it been requested, and living in the trailer was a cost advantage to the Government, since the small parking fee cost less than the ordinary temporary lodging accommodations.

Mr. Barbaree did certify that the trailer was to be used as a "residence." However, the form on which he so certified did not state that the "residence" must be permanent or established as the regular home of the transferred employee at the new duty station; nor did the form state that certification was for the purpose of compliance with paragraph 2-7.1 of the FTR. Courts have often ruled that "residence" may mean either a temporary or permanent place of abode. See, for example, Price v. United States (U.S.D.C., N. D. Ill., 1949), 87 F. Supp. 901, 903. Given the facts showing Mr. Barbaree's actual intent, his ability to use the trailer only temporarily, and the uncertain meaning of the language on the form, we do not consider that the certification is controlling on the question of Mr. Barbaree's intent.

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For the above reasons, we have no objection to payment of temporary quarters subsistence. However, there should be a deduction of the \$55.44 paid previously under FTR paras. 2-7.1, et seq., for transporting the trailer, in lieu of transportation and temporary storage of household goods. This payment was a mistake and unauthorized since the trailer could not be used for a permanent residence. B-163856, April 30, 1968; B-114826, May 7, 1974. Because of the mistake the travel orders may be retroactively corrected to authorize payment of temporary quarters and to cancel the trailer allowance. Retroactive correction of authorized mileage rate for Forest Service Employees, B-183886, July 30, 1975. Any claims for transportation and temporary storage of household goods, as well as expenses for purchasing a residence at Salt Lake City, may be considered only after cancellation of the trailer allowance paid under FTR paras. 2-7.1, et seq. As explained above, the trailer allowance is designed to be a substitute for these items and not a duplicate benefit.

Deputy


Comptroller General
of the United States